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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	Criminal No. CR 05-00167 WHA
	)	
Plaintiff,	)	
	)	
	)	<b>GOVERNMENT'S SENTENCING</b>
	)	<b>MEMORANDUM</b>
v.	)	
	)	Court: Hon. William H. Alsup
	)	Date: January 20, 2008
<b>RAYMON MILBURN,</b>	)	Time: 2:00 p.m.
	)	
	)	
	)	
Defendant.	)	

On November 3, 2008, Raymon Milburn pleaded guilty to Count Fourteen of the Second Superseding Indictment, charging him with Conspiracy to Murder in Aid of Racketeering in violation of 18 U.S.C. Section 1959(a)(5). The plea agreement was pursuant to Fed.R.Crim.P. 11(c)(1)(C) and specified an agreed-upon sentence of a term of imprisonment of 84 months (7 years). On December 30, 2008, the Presentence Investigation Report (PSR) was disclosed. Mr. Milburn's base offense level was calculated to be 33, and his Criminal History was calculated to

1 be Category III, which result in a Guideline range of 121 to 151 months. The Final Report has  
2 not been issued at the time of this filing.

3 In the plea agreement, both parties agreed and stipulated to the following computations:

- |   |    |                                                   |    |
|---|----|---------------------------------------------------|----|
| 4 | a. | Base Offense Level, U.S.S.G. § 2A1.5 (via 2E1.3): | 33 |
| 5 | b. | Acceptance of Responsibility:                     | -3 |
| 6 | c. | Adjusted offense level                            | 30 |

7 The United States and the defendant engaged in extensive and long-term plea negotiations. With  
8 respect to this defendant, the parties agreed that a fair and reasonable sentence for his criminal  
9 activities was a term of imprisonment of 84 months or 7 years. While this sentence is below the  
10 guideline range, it is a term of years that the government believes reflects the conduct of this  
11 defendant, as well as the other considerations taken into account by the parties during their  
12 negotiations, including evidentiary issues that balanced the costs and benefits of going to trial.

13 The government respectfully requests, in accordance with the Rule 11(c)(1)(C) plea  
14 agreement, that the Court impose the jointly agreed-upon sentence of 84-months' imprisonment,  
15 to be followed by three years of supervised release. The Court could achieve this result by  
16 adopting the calculations contained in the PSR and then imposing a lower sentence based on the  
17 factors identified in 18 U.S.C. § 3553(a) (in particular those discussed in Section 3553(a)(1)) as  
18 well as the principles outlined in *United States v. Booker*, 543 U.S. 220 (2005); *see also United*  
19 *States v. Cheslowski*, 410 F.3d 353, 363 (7th Cir.2005)(holding that *Booker* strengthens the case  
20 for the validity of sentences imposed under Rule 11(c)(1)(C) plea agreements that deviate from  
21 the Guidelines range)).

22 In sum, the Court should sentence defendant as agreed to by the parties to a term of  
23 imprisonment of 84 months followed by a three-year period of supervised release, and a special  
24 assessment of \$100.

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1 Dated: January 15, 2009

Respectfully submitted,  
JOSEPH P. RUSSONIELLO  
United States Attorney

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3 \_\_\_\_\_/s/  
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